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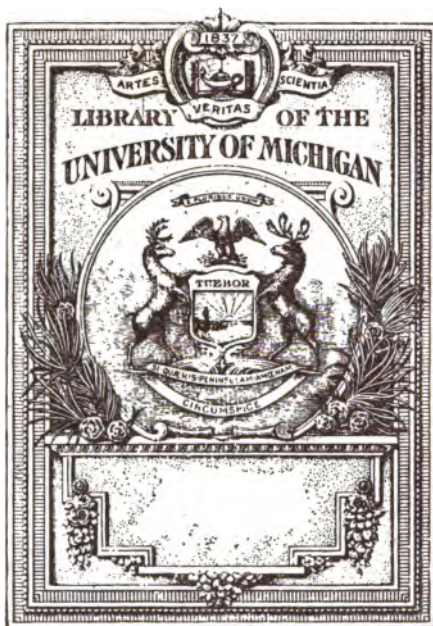
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A MODEL CITY CHARTER

WITH HOME RULE PROVISIONS RECOMMENDED FOR
STATE CONSTITUTIONS

PREPARED BY THE COMMITTEE ON MUNICIPAL
PROGRAMME OF THE NATIONAL
MUNICIPAL LEAGUE

Final Edition, March, 1922

NATIONAL MUNICIPAL LEAGUE
261 Broadway, New York

Nat. Municipal League
3-22-1923
gen.

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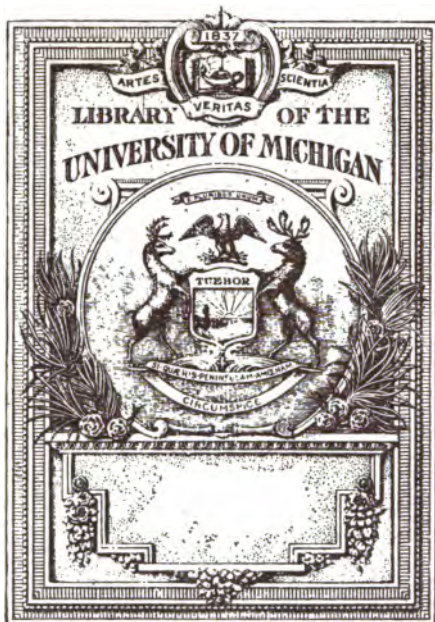
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The Committee on Municipal Program consisted of:

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any member so convicted shall be subject to a fine not exceeding \$ or imprisonment for a term not exceeding months, or both, and to removal from office in the discretion of the court.

SEC. 4. *Election by Councils. Rules Quorum.* The council shall elect one of its members as chairman, who shall be entitled mayor; also a city manager, a clerk, and a civil service commission, but no member of the council shall be chosen as manager or as a member of the civil service commission. The council may determine its own rules of procedure, may punish its own members for misconduct, and may compel attendance of members. A majority of all the members of the council shall constitute a quorum to do business, but a smaller number may adjourn from time to time.

SEC. 5. *Organization and Procedure of Council.* At 8 o'clock P. M. on the first Monday in (month) following a regular municipal election, the council shall meet at the usual place for holding meetings, at which time the newly elected councilmen shall assume the duties of their office. Thereafter the council shall meet at such time and place as may be prescribed by ordinance. The meetings of the council and all sessions of committees of the council shall be public. The council shall act only by ordinance or resolution; and all ordinances and resolutions, except ordinances making appropriations, shall be confined to one subject which shall be clearly expressed in the title. The ordinances making appropriations shall be confined to the

districts, each to elect five or more members of the council. An effort should be made to keep the size of the districts down to a point where free competition for public office may prevail, the expense of a thorough canvass being not too great for an independent candidate who may lack the support of a permanent political organization. If proportional representation is not used and the number of councilmen to be elected at large, or from a single district, is more than five, provision should be made for their election—after the first time in groups. For example, if the number of councilmen to be elected were fifteen and their term were six years, five should be elected every two years.

NOTE 3. In determining whether a salary shall be paid, and if so how much, it must be borne in mind that the duties of the council are supervisory; and that it is the object of this charter to place the administrative affairs of the city in the hands of the city manager.

subject of appropriations. No ordinance shall be passed until it has been read on two separate days or the requirement of readings on two separate days has been dispensed with by a four-fifths vote of the members of the council. The final reading shall be in full, unless the measure shall have been printed and a copy thereof furnished to each member prior to such reading. The ayes and noes shall be taken upon the passage of all ordinances or resolutions and entered upon the journal of the proceedings of the council, and every ordinance or resolution shall require on final passage the affirmative vote of a majority of all the members. No member shall be excused from voting except on matters involving the consideration of his own official conduct, or where his financial interests are involved. Provision shall be made for the printing and publication in full of every ordinance within ten days after its final passage.

SEC. 6. *Powers of Mayor.* The mayor shall preside at meetings of the council and perform such other duties consistent with his office as may be imposed by the council. He shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil processes, and by the governor for military purposes. In time of public danger or emergency he may, with the consent of the council, take command of the police and maintain order and enforce the laws. During his absence or disability his duties shall be performed by another member appointed by the council.

NOMINATIONS AND ELECTIONS

SEC. 7. *Municipal Elections.* A municipal election shall be held on the — day of — of the — year and of every second year thereafter, which shall be known as the regular municipal election. All other municipal elections

NOTE 4. Municipal elections may be held in the odd years when there is no state or national election. If held in the same year, they should be separated from the latter by at least thirty, and preferably sixty, days.

REPORT OF COMMITTEE ON MUNICIPAL PROGRAM

THE Committee on Municipal Program was appointed in 1913 to consider the original "Municipal Program" adopted in 1900 and if desirable to draft a new model charter and home rule constitutional amendments embodying the result of subsequent study and developments. This committee presented a partial report to the meeting of the League in Baltimore, in November, 1914, in the form of sections dealing with the council, the city manager and the civil service board. The committee held two day sessions in New York, April 8 and 9, 1915, at which time these sections were carefully revised and sections dealing with the initiative, referendum, recall and other electoral provisions were considered and added, and a partial draft of the constitutional provisions, which had been presented at the Baltimore meeting was completed. Another meeting of the committee was held in New York, September 14, 1915, at which further revisions were made, and the financial provisions added as well as the two appendices treating of proportional representation and franchise provisions, all of which were included in the tentative draft. The Program was again submitted to the League at its annual meeting in Dayton on November 19, 1915, and the sections were approved by the members there present. The document was referred back to the Committee on Municipal Program for further amendments, and these amendments as adopted at a meeting of the committee in Philadelphia, December 27 and 28, 1915, are also contained in the following Program.

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A. R. HATTON, Western Reserve University, Cleveland.
HERMAN G. JAMES, University of Texas,
A. LAWRENCE LOWELL, Harvard University,
WILLIAM BENNETT MUNRO, Harvard University,
ROBERT TREAT PAINE, Boston,
DELOS F. WILCOX, New York City,
CLINTON ROGERS WOODRUFF, Philadelphia.

MUNICIPAL HOME RULE CONSTITUTIONAL PROVISIONS

(To be adopted and incorporated in the state constitution)

SECTION 1. *Incorporation and Organization.* Provision shall be made by a general law for the incorporation of cities and villages; and by a general law for the organization and government of cities and villages which do not adopt laws or charters in accordance with the provisions of sections 2 and 3 of this article.

SEC. 2. *Optional Laws.* Laws may be enacted affecting the organization and government of cities and villages, which shall become effective in any city or village only when submitted to the electors thereof and approved by a majority of those voting thereon.

SEC. 3. *City Charters.* Any city may frame and adopt a charter for its own government in the following manner: The legislative authority of the city may by a two-thirds vote of its members, and upon the petition of ten per cent of the qualified electors, shall forthwith provide by ordinance for the submission to the electors of the question: "Shall a commission be chosen to frame a charter?" The ordinance shall require that the question be submitted to the electors at the next regular municipal election, if one shall occur not less than sixty nor more than one hundred and twenty days after its passage, otherwise, at a special election to be called and held within the time aforesaid; the ballot containing such question shall also contain the names of candidates for

members of the proposed commission, but without party designation.

Such candidates shall be nominated by petition which shall be signed by not less than two per cent of the qualified electors, and be filed with the election authorities at least thirty days before such election; provided, that in no case shall the signatures of more than one thousand (1000) qualified electors be required for the nomination of any candidate. If a majority of the electors voting on the question of choosing a commission shall vote in the affirmative, then the fifteen candidates receiving the highest number of votes (or if the legislative authority of the state provides by general law for the election of such commissioners by means of a preferential ballot or proportional representation or both, then fifteen chosen in the manner required by such general law) shall constitute the charter commission and shall proceed to frame a charter.

Any charter so framed shall be submitted to the qualified electors of the city at an election to be held at a time to be determined by the charter commission, which shall be at least thirty days subsequent to its completion and distribution among the electors and not more than one year from the date of the election of the charter commission. Alternative provisions may also be submitted to be voted upon separately. The commission shall make provision for the distribution of copies of the proposed charter and of any alternative provisions to be qualified electors of the city not less than thirty days before the election at which it is voted upon. Such proposed charter and such alternative provisions as are approved by a majority of the electors voting thereon shall become the organic law of such city at such time as may be fixed therein, and shall supersede any existing charter and all laws affecting the organization and government of such city which are in conflict therewith. Within thirty days after its approval the election authorities shall certify a copy of such charter to the secretary of state, who shall file the same as a public record in his office, and the same shall be

published as an appendix to the session laws enacted by the legislature.

SEC. 4. *Amendments.* Amendments to any such charter may be framed and submitted by a charter commission in the same manner as provided in section 3 for framing and adopting a charter. Amendments may also be proposed by two-thirds of the legislative authority of the city, or by petition of ten per cent of the electors; and any such amendment, after due public hearing before such legislative authority, shall be submitted at a regular or special election as is provided for the submission of the question of choosing a charter commission. Copies of all proposed amendments shall be sent to the qualified electors. Any such amendment approved by a majority of the electors voting thereon shall become a part of the charter of the city at the time fixed in the amendment and shall be certified to and filed and published by the secretary of state as in the case of a charter.

SEC. 5. *Powers.* Each city shall have and is hereby granted the authority to exercise all powers relating to municipal affairs; and no enumeration of powers in this constitution or any law shall be deemed to limit or restrict the general grant of authority hereby conferred; but this grant of authority shall not be deemed to limit or restrict the power of the legislature, in matters relating to state affairs, to enact general laws applicable alike to all cities of the state.

The following shall be deemed to be a part of the powers conferred upon cities by this section:

(a) To levy, assess and collect taxes and to borrow money, within the limits prescribed by general laws; and to levy and collect special assessments for benefits conferred;

(b) To furnish all local public services; to purchase, hire, construct, own, maintain, and operate or lease local public utilities; to acquire, by condemnation or otherwise, within or without the corporate limits, property necessary for any such purposes, subject to restrictions imposed by general law for the protection of other communities; and to

grant local public utility franchises and regulate the exercise thereof;

(c) To make local public improvements and to acquire, by condemnation or otherwise, property within its corporate limits necessary for such improvements; and also to acquire an excess over that needed for any such improvement, and to sell or lease such excess property with restrictions, in order to protect and preserve the improvement;

(d) To issue and sell bonds on the security of any such excess property, or of any public utility owned by the city, or of the revenues thereof, or of both, including in the case of a public utility, if deemed desirable by the city, a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate such utility;

(e) To organize and administer public schools and libraries, subject to the general laws establishing a standard of education for the state;

(f) To adopt and enforce within their limits local police, sanitary and other similar regulations not in conflict with general laws.

SEC. 6. *Reports.* General laws may be passed requiring reports from cities as to their transactions and financial condition, and providing for the examination by state officials of the vouchers, books and accounts of all municipal authorities, or of public undertakings conducted by such authorities.

SEC. 7. *Elections.* All elections and submissions of questions provided for in this article or in any charter or law adopted in accordance herewith shall be conducted by the election authorities provided by general law.

SEC. 8. *Consolidation of City and County.* Any city of 100,000 population or over, upon vote of the electors taken in the manner provided by general law, may be organized as a distinct county; and any such city and county may in its municipal charter provide for the consolidation of the county, city and all other local authorities in one system of municipal government, in which provision shall

be made for the exercise of all powers and duties vested in the several local authorities. Any such consolidated city and county government shall also have the same powers to levy taxes and to borrow money as were vested in the several local authorities before consolidation.

THE MODEL CHARTER¹

THE COUNCIL

SECTION 1. *Creation of Council.* There is hereby created a council which shall have full power and authority, except as herein otherwise provided, to exercise all the powers conferred upon the city.

SEC. 2. *Composition of Council.* The council shall consist of _____ members,² who shall be elected on a general ticket from the city at large and shall serve for a term of four years from _____ days after their election, and shall be subject to recall as hereinafter provided.³

The following shall be deemed to be a part of the powers conferred upon cities by this section:

(a) To levy, assess and collect taxes and to borrow money within the limits prescribed by general law; and to levy and collect special assessments for benefits conferred.

(b) To furnish all local public services; to purchase, hire, construct, own, maintain and operate or lease local public utilities; to acquire, by condemnation or otherwise, within or without the corporate limits, property

¹This number may be varied to suit local conditions in the several states.

NOTE 1. This model is assumed to be a home rule charter based upon some such provisions for constitutional municipal home rule as those suggested in this report. When this or a similar charter is made available for cities by statute it is desirable that a comprehensive grant of powers be included in the act itself. Otherwise cities securing such a charter will have only the powers enumerated in the general law of the state and be subject to all the restrictions and inconveniences arising from that method of granting powers. It is suggested, therefore, that the following grant of powers be included in any such special statutory charter or optional charter law. The changes of language necessary to adapt it to a special statutory charter readily suggest themselves:

SECTION —. Cities organized under this act shall have and are hereby granted authority to exercise all powers relating to their municipal affairs; and no enumeration of powers in any law shall be deemed to restrict the general grant of authority hereby conferred.

SEC. 3. *Powers of Council.* The council shall be the judge of the election and qualification of its own members, subject to review by the courts. Any member of council who shall have been convicted of a crime while in office shall thereby forfeit his office. Neither the council nor any of its committees or members shall dictate the appointment of any person to office or employment by the city manager, or in any manner interfere with the city manager or prevent him from exercising his own judgment in the appointment of officers and employees in the administrative service. Except for the purpose of inquiry the council and its members shall deal with the administrative service solely through the city manager, and neither the council nor any member thereof shall give orders to any of the subordinates of the city manager, either publicly or privately. Any such dictation, prevention, orders, or other interference on the part of a member of council with the administration of the city shall be deemed to be a misdemeanor, and upon conviction

necessary for any such purposes, subject to restrictions imposed by general law for the protection of other communities; and to grant local public utility franchises and regulate the exercise thereof.

(c) To make local public improvements and to acquire, by condemnation or otherwise, property within its corporate limits necessary for such improvements; and also to acquire an excess over that needed for any such improvement, and to sell or lease such excess property with restrictions, in order to protect and preserve the improvement.

(d) To issue and sell bonds on the security of any such excess property, or of any public utility owned by the city, or of the revenues thereof, or of both, including in the case of a public utility, if deemed desirable by the city, a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate such utility.

(e) To organize and administer public schools and libraries, subject to the general laws establishing a standard of education for the state.

(f) To adopt and enforce within their limits local police, sanitary and other similar regulations not in conflict with general laws.

Except as otherwise provided in this act the council shall have authority to determine by whom and in what manner the powers granted by this section shall be exercised.

NOTE 2. The number of members, and whether they should be chosen at large or from districts being determined by the size of the city. There should be at least 5 members, and 50 would probably suffice for cities of the largest size. Great cities may with advantage be divided into large

any member so convicted shall be subject to a fine not exceeding \$ or imprisonment for a term not exceeding months, or both, and to removal from office in the discretion of the court.

SEC. 4. *Election by Councils. Rules Quorum.* The council shall elect one of its members as chairman, who shall be entitled mayor; also a city manager, a clerk, and a civil service commission, but no member of the council shall be chosen as manager or as a member of the civil service commission. The council may determine its own rules of procedure, may punish its own members for misconduct, and may compel attendance of members. A majority of all the members of the council shall constitute a quorum to do business, but a smaller number may adjourn from time to time.

SEC. 5. *Organization and Procedure of Council.* At 8 o'clock P. M. on the first Monday in (month) following a regular municipal election, the council shall meet at the usual place for holding meetings, at which time the newly elected councilmen shall assume the duties of their office. Thereafter the council shall meet at such time and place as may be prescribed by ordinance. The meetings of the council and all sessions of committees of the council shall be public. The council shall act only by ordinance or resolution; and all ordinances and resolutions, except ordinances making appropriations, shall be confined to one subject which shall be clearly expressed in the title. The ordinances making appropriations shall be confined to the

districts, each to elect five or more members of the council. An effort should be made to keep the size of the districts down to a point where free competition for public office may prevail, the expense of a thorough canvass being not too great for an independent candidate who may lack the support of a permanent political organization. If proportional representation is not used and the number of councilmen to be elected at large, or from a single district, is more than five, provision should be made for their election—after the first time in groups. For example, if the number of councilmen to be elected were fifteen and their term were six years, five should be elected every two years.

NOTE 3. In determining whether a salary shall be paid, and if so how much, it must be borne in mind that the duties of the council are supervisory; and that it is the object of this charter to place the administrative affairs of the city in the hands of the city manager.

subject of appropriations. No ordinance shall be passed until it has been read on two separate days or the requirement of readings on two separate days has been dispensed with by a four-fifths vote of the members of the council. The final reading shall be in full, unless the measure shall have been printed and a copy thereof furnished to each member prior to such reading. The ayes and noes shall be taken upon the passage of all ordinances or resolutions and entered upon the journal of the proceedings of the council, and every ordinance or resolution shall require on final passage the affirmative vote of a majority of all the members. No member shall be excused from voting except on matters involving the consideration of his own official conduct, or where his financial interests are involved. Provision shall be made for the printing and publication in full of every ordinance within ten days after its final passage.

SEC. 6. *Powers of Mayor.* The mayor shall preside at meetings of the council and perform such other duties consistent with his office as may be imposed by the council. He shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil processes, and by the governor for military purposes. In time of public danger or emergency he may, with the consent of the council, take command of the police and maintain order and enforce the laws. During his absence or disability his duties shall be performed by another member appointed by the council.

NOMINATIONS AND ELECTIONS

SEC. 7. *Municipal Elections.* A municipal election shall be held on the — day of — of the — year, and of every second year thereafter, which shall be known as the regular municipal election. All other municipal elections

NOTE 4. Municipal elections may be held in the odd years when there is no state or national election. If held in the same year, they should be separated from the latter by at least thirty, and preferably sixty, days.

that may be held shall be known as special municipal elections.

SEC. 8. *Nomination by Petition.* The mode of nomination of candidates for the council provided for by this charter shall be by petition. The name of any elector of the city shall be printed upon the ballot whenever a petition as hereinafter prescribed shall have been filed in his behalf with the election authorities. Such petition shall be signed by at least — electors.⁵ No elector shall sign more than one such petition, and should an elector do so, his signature shall be void as to the petition or petitions last filed.⁶

SEC. 9 *Signatures to and Forms of Nomination Papers.* The signatures to the nomination petition need not all be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof, stating the number of signers of such paper and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify the same. The form of the nomination petition shall be substantially as follows:

We, the undersigned, electors of the city of.....
hereby nominate....., whose residence is.....
for the office of....., to be voted for at the election to
be held in the city of....., on the.....day of.....,
19.....; and we individually certify that we are qualified
to vote for a candidate for the office named and that we

NOTE 5. If proportional representation is used, the number of names required on each petition should usually be from one-half of one per cent (in large cities) to one and one-half per cent (in the smallest cities) of the total number of voters. If proportional representation is not used, the number should be from 25 to 200.

NOTE 6. If proportional representation is not used, this sentence should be stricken out, and the following substituted: "No elector shall sign petitions for more candidates than the number of places of that particular designation to be filled at the election, and should an elector do so his signature shall be void as to the petition or petitions last filed."

Name.....Street and Number.....
(Space for signatures.)

(Signed).....

....., Justice of the Peace (or Notary Public).

SEC. 10. *Filing Nomination Papers.* All nomination papers comprising a petition shall be assembled and filed with the election authorities, as one instrument, not earlier than thirty nor later than fifteen days before the election. Any person nominated under this charter shall file with the election authorities his written acceptance of said nomination not later than twenty days before the day of the election, and in the absence of such acceptance his name shall not appear on the ballot.

SEC. 12. *The Ballots and the Voting.* The full names of candidates nominated for the council in accordance with the provisions of this charter shall be printed on the official ballots in the alphabetical order of the surnames⁸ [in rotation. There shall be printed as many sets of ballots

NOTE 7. If proportional representation is not used, this clause should read as follows: “—for a candidate for the office named and that we have not signed more nomination petitions for that office than there are persons to be elected thereto.”

as there are candidates. Each set of ballots shall begin with the name of a different candidate, the other names being arranged thereafter in regular alphabetical order, commencing with the name next in alphabetical order after the one that stands first on that set of ballots. When the last name is reached in alphabetical order it shall be followed by the name that begins with the first letter represented in the list of names and by the others in regular order. The ballots so printed shall then be combined in tablets so as to have the fewest possible ballots having the same order of names printed thereon together in the same tablet].

The ballots shall be marked according to the following instructions, which shall be printed at the top of each ballot under the heading of "Directions to Voters."

Put the figure 1 opposite the name of your first choice. If you want to express also second, third, and other choices, do so by putting the figure 2 opposite the name of your second choice, the figure 3 opposite the name of your third choice, and so on. You may express thus as many choices as you please. *The more choices you express, the surer you are to make your ballot count for one of the candidates you favor.*

This ballot will not be counted for your second choice unless it is found that it cannot help your first; it will not be counted for your third choice unless it is found that it cannot help either your first or your second, etc.

A ballot is spoiled if the figure 1 is put opposite more than one name. If you spoil this ballot, tear it across once, return it to the election officer in charge of the ballots, and get another from him.

SEC. 13. *Rules for Counting the Ballots.* Ballots cast for the election of members of the council shall be counted and the results determined by the election authorities according to the following rules:

NOTE 8. The matter enclosed in the brackets is to be included in the charter only if rotation of the names on the ballots is desired.

Rotation should not be used if proportional representation is used, as it is inconsistent with the quickest and best methods of completing the count under the proportional system.

(a) On all ballots a cross shall be considered equivalent to the figure 1. So far as may be consistent with the general election laws, every ballot from which the first choice of the voter can be clearly ascertained shall be considered valid.

(b) The ballots shall first be sorted and counted at the several voting precincts according to the first choices of the voters. At each voting precinct the ballots cast for each candidate as first choice shall be put up in a separate package, which shall be properly marked on the outside to show the number of ballots therein and the name of the candidate for whom they were cast. The ballots declared invalid by the precinct officials shall also be put up in a separate package, properly marked on the outside. All the packages of the precinct, together with a record of the precinct count, shall be forwarded to the central election authorities as directed by them, and the counting of the ballots shall proceed under their direction.

(c) After the review of the precinct count by the central election authorities, and the correction of any errors discovered therein, the first-choice votes for each candidate shall be added and tabulated. This completes the first count.

(d) The whole number of valid ballots shall then be divided by a number greater by one than the number of seats to be filled. The next whole number larger than the resulting quotient is the *quota or constituency* that suffices to elect a member.

(e) All candidates the number of whose votes on the first count is equal to or greater than the quota shall then be declared elected.

(f) All votes obtained by any candidate in excess of the quota shall be termed his surplus.

(g) The surpluses shall be transferred, the largest surplus first, then the next largest, and so on, according to the following rules.

(h)⁹ Ballots capable of transfer up to the number of

NOTE 9. If it is thought worth while to eliminate the infinitesimal element of chance involved in transferring the surplus ballots according to

votes in the surplus shall be successively transferred to the continuing candidates marked on them as next choice in accordance with rule (n). The particular ballots to be taken for transfer as the surplus of a candidate shall be obtained by taking as nearly an equal number of ballots as possible from the ballots capable of transfer that have been cast for him in each of the different precincts. All such surplus ballots shall be taken as they happen to come without selection.

(i) "Ballots capable of transfer" or "transferable ballots" means ballots from which the next choice of the voter for some continuing candidate can be clearly ascertained. A "continuing candidate" is a candidate as yet neither elected nor defeated. "Successively" means one after another separately so far as the work of one electoral official or clerk is concerned; but nothing in this

this rule, the following alternative form of the rule may be substituted:

(h) The transferable ballots of a candidate having a surplus shall be sorted into piles according to the next choice marked on each for a continuing candidate. The non-transferable ballots shall be sorted into a separate pile. The number of ballots in each pile shall then be ascertained.

If the number of transferable ballots is equal to or less than the surplus, they shall all be successively transferred, each to the continuing candidate marked on it as next choice in accordance with rule (n).

If the number of the transferable ballots is greater than the surplus, such ballots to the number of the surplus shall be successively transferred, the particular ballots thus taken for transfer as the surplus being taken from the several piles proportionately according to the following directions:

(1) Multiply the number of ballots in each pile of transferable ballots by the fraction of which the numerator is the number of surplus ballots and the denominator is the total number of transferable ballots in the several piles.

(2) Of the fractions that may appear in the resulting products, as many of the largest shall be considered as having the value of one as may be necessary to make the total number of ballots transferred equal to the surplus. All other fractions shall be disregarded.

(3) The product in the case of each pile is the number of ballots to be successively transferred from the pile, each to the continuing candidate marked on it as next choice in accordance with rule (n).

The particular ballots to be taken for transfer from each pile shall be taken as they happen to come to hand without selection.

If any ballot properly reckoned as transferable at the beginning of the process prescribed in this rule (h) becomes non-transferable during the process, it shall be treated thereafter as a non-transferable ballot.

section is meant to prevent the transfer of ballots by two or more officials or clerks simultaneously, provided only that precautions are taken to avoid transferring any ballot to a candidate who has already received the quota.

(j) The transfer of each ballot shall be tallied by the tally clerk assigned to the candidate to whom the ballot is being transferred.

(k) After the transfer of all surpluses, the votes standing to the credit of each candidate shall be added up and tabulated as the second count.

(l) After the tabulation of the second count (or after that of the first count if no candidate received a surplus on the first) every candidate who has no votes to his credit shall be declared defeated. Thereupon the candidate lowest on the poll as it then stands shall be declared defeated, and all his ballots capable of transfer shall be transferred successively to continuing candidates, each ballot being transferred to the credit of that continuing candidate next preferred by the voter, in accordance with rule (n). After the transfer of these ballots a fresh tabulation of results shall be made. In this manner candidates shall be successively declared defeated, and their ballots capable of transfer transferred to continuing candidates, and fresh tabulations of results made. After any tabulation the candidate next to be declared defeated shall be the one then lowest on the poll.

(m) If after the second or any later count (or after the first count if no candidate received a surplus on the first) the total of the votes of two or more candidates lowest on the poll is less than the vote of the next higher candidate, those lowest candidates may be declared defeated simultaneously, and all their ballots capable of transfer transferred successively to continuing candidates, each ballot being transferred to the credit of that continuing candidate next preferred by the voter, in accordance with rule (n). In this operation the ballots of the lowest candidate shall be transferred first, then those of the candidate next higher, and so on. No fresh tabulation of results shall

be made until the ballots of all of the candidates thus simultaneously defeated have been transferred.

(n) Whenever in the transfer of a surplus or of the ballots of a defeated candidate the votes of any candidate become equal to the quota, he shall immediately be declared elected and no further transfer to him shall be made.

(o) When candidates to the number of the seats to be filled have received a quota and have therefore been declared elected, all other candidates shall be declared defeated and the election shall be at an end; and when the number of continuing candidates is reduced to the number of seats to be filled, those candidates shall be declared elected whether they have received the full quota or not and the election shall be at an end.

(p) If at any count two or more candidates at the bottom of the poll have the same number of votes, that candidate shall first be declared defeated who was lowest at the next preceding count at which the number of their votes was different. Should it happen that the number is the same on all counts, lots shall be drawn to decide which candidate shall next be declared defeated.

(q) In the transfer of the ballots of any candidate who has received ballots by transfer, those ballots shall first be transferred upon which he was first choice, and the remaining ballots shall be transferred in the order of the counts by which they were received by him.

(r) On each tabulation a record shall be kept, under the designation "non-transferable ballots," of those ballots which have not been used in the election of any candidate and which are not capable of transfer.

(s) Every ballot that is transferred from one candidate to another shall be stamped or marked so that its entire course from candidate to candidate throughout the counting can be conveniently traced. The ballots shall be preserved by the election authorities until the end of the term for which the members of the council are being elected. In case a re-count of the ballots is made, every ballot shall be made to take in the re-count the same

course that it took in the original count unless there is discovered a mistake that requires its taking a different course, in which case the mistake shall be corrected and also any further changes made in the course taken by ballots that may be required as a result of the correction. These principles shall apply also to the correction of any error that may be discovered during the original count.

(t) The candidates or their agents, representatives of the press, and, so far as may be consistent with good order and with convenience in the counting and transferring of the ballots, the public shall be afforded every facility for being present and witnessing these operations.

(u) The council shall have power to provide for the use of mechanical devices for marking and sorting the ballots and tabulating the results, and to modify the form of the ballot, the directions to voters, and the details in respect to the methods of counting and transferring ballots accordingly; provided, however, that no change shall be made in the provisions of Sections 12 and 13 of this charter which will alter in any degree the principles of the voting or of the count.

SEC. 14. *Vacancy Provisions.*¹⁰ In the event of a vacancy occurring in the council it shall be filled for the remainder of the unexpired term by that candidate who is credited with most votes as the result of a re-count and transfer of those ballots by which the member was elected whose place is to be filled.

This re-count shall be carried out in accordance with the provisions of Section 13, the candidate lowest after each transfer being dropped out as defeated until only one is left. At the beginning of this re-count all the original candidates of the last regular election shall be considered "continuing candidates" (as defined in Section 13 (i) except those elected at or since said election, those now

NOTE 10. If proportional representation is not used, the following form of this section should be substituted:

SEC. 14. *Vacancy Provisions.* Vacancies in the council, except as otherwise provided herein, shall be filled for the unexpired term by a majority vote of the remaining members.

ineligible, and those who have withdrawn by written notice to the election authorities.

THE RECALL ¹¹

SEC. 15. *Recall Provisions.*¹² Any member of the council may be removed from office by recall petition.

Any elector of the city may make and file with the city clerk an affidavit containing the name or names of any member or members of the council whose removal is sought and a statement of the grounds for removal. The clerk shall thereupon deliver to the elector making such affidavit copies of petition blanks demanding such removal,

NOTE 11. The original recall sections, now printed in Note 12, were inserted by a majority vote of the committee. In that form they are not applicable when proportional representation is adopted but may be used when a charter provides some other method of election.

NOTE 12. If proportional representation is not used the following section on the recall should be substituted:

SEC. 15. *Procedure for Filing Recall Petition.* Any officer or officers holding an elective office provided for in this charter may be recalled and removed therefrom by the electors of the city as herein provided.*

Any elector of the city may make and file with the city clerk an affidavit containing the name or names of the officer or officers whose removal is sought and a statement of the grounds for removal. The clerk shall thereupon deliver to the elector making such affidavit copies of petition blanks for such removal, printed forms of which he shall keep on hand. Such blanks shall be issued by the clerk with his signature and official seal thereto attached; they shall be dated and addressed to the council, shall contain the name of the person to whom issued, the number of blanks so issued, the name of the person or persons whose removal is sought and the office from which such removal is sought. A copy of the petition shall be entered in a record book to be kept in the office of the clerk. The recall petition, to be effective, must be returned and filed with the clerk within thirty days after the filing of the affidavit. The petition before being returned and filed shall be signed by electors of the city to the number of at least fifteen per cent of the number of electors who cast their votes at the last preceding regular municipal election, and to every such signature shall be added the place of residence of the signer, giving the street and number or other description sufficient to identify the place. Such signatures need not all be on one paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. All such recall papers shall be filed as one instrument, with the endorse-

*Where a large city is divided into districts for electoral purposes the word "district" should be substituted for "city" in these sections.

printed forms of which he shall keep on hand. Such blanks shall be issued by the clerk with his signature and official seal thereto attached; they shall be dated and addressed to the council and shall contain the name of the person to whom issued, the number of blanks so issued, and the name of the member whose removal is sought. A copy of the petition shall be entered in a record book to be kept in the office of the clerk. The recall petition to be effective must be returned and filed with the clerk within thirty days after the filing of the affidavit. To be effective

ments thereon of the names and addresses of three persons designated as filing the same.

Examination and Amendment of Recall Petitions. Within ten days after the filing of the petition the clerk shall ascertain whether or not the petition is signed by the requisite number of electors and shall attach thereto his certificate showing the result of such examination. If his certificate shows the petition to be insufficient, he shall forthwith so notify in writing one or more of the persons designated on the petition as filing the same; and the petition may be amended at any time within ten days, after the giving of said notice, by the filing of a supplementary petition upon additional petition papers, issued, signed and filed as provided herein for the original petition. The clerk shall, within ten days after such amendment, make like examination of the amended petition, and attach thereto his certificate of the result. If then found to be insufficient, or if no amendment was made he shall file the petition in his office and shall notify each of the persons designated thereon as filing it of that fact. The final finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Calling of Recall Election. If the petition or amended petition shall be certified by the clerk to be sufficient he shall submit the same with his certificate to the council at its next meeting and shall notify the officer or officers whose removal is sought of such action. The council shall thereupon, within ten days of the receipt of the clerk's certificate, order an election to be held not less than thirty nor more than forty-five days thereafter. *Provided*, that if any other municipal election is to occur within sixty days after the receipt of said certificate, the council may in its discretion provide for the holding of the removal election on the date of such other municipal election.

Form of Ballot to Recall Officer. Unless the officer or officers whose removal is sought shall have resigned within ten days after the receipt by the council of the clerk's certificate the form of the ballot at such election shall be as nearly as may be: "Shall A be recalled? Shall B be recalled?" etc., the name of the officer or officers whose recall is sought being inserted in place of A, B, etc., and the ballot shall also contain the names or the candidates to be elected in place of the men recalled, as follows: "Candidates for the place of A, if recalled; candidates for the place of B, if recalled," etc., but the men whose recall is sought shall not themselves be candidates upon such ballot.

the petition must also bear the signatures of electors of the city to the number of at least twenty-five per cent of the number of electors who cast their votes at last preceding regular municipal election, and it must include the signatures of at least sixty per cent of the voters who signed the nomination petition of the member whose recall is demanded. To every signature on the petition shall be added the place of residence of the signer, the street and number or other description sufficient to identify the place. Such signatures need not all be on one paper, but the circulator of each such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. The required number of signatures of electors who signed the nomination petition of the member whose recall is demanded shall be on one paper separate from those containing the other signatures. All such recall petition papers shall be filed as one instrument, with the endorsement thereon of the names and addresses of three persons designated as filing the same.

On receiving the recall petition, the city clerk shall examine it promptly. If he finds it to be sufficient according to the provisions of this section he shall certify that fact to the council, and at the expiration of thirty days from the time when the petition was filed the member whose recall is demanded shall be deemed removed from office.

Any vacancy caused by the recall of a member shall be filled in accordance with Section 14.

In case a majority of those voting for and against the recall of any official shall vote in favor of recalling such official he shall be thereby removed, and in that event the candidate who receives the highest number of votes for his place shall be elected thereto for the balance of the unexpired term.

If the officer or officers sought to be removed shall have resigned within ten days after the receipt by the council of the clerk's certificate referred to in this section above hereof, the form of ballot at the election shall be the same, as nearly as may be, as the form in use at a regular municipal election.

Procedure on Refusal of Council. Should the council fail or refuse to order an election as herein provided within the time required, such election may be ordered by any court of general jurisdiction in the county in which said city is situated.

THE INITIATIVE ¹³

SEC. 16. *Power to Initiate Ordinances.* The people shall have power at their option to propose ordinances, including ordinances granting franchises or privileges, and other measures and to adopt the same at the polls such power being known as the initiative. A petition, meeting the requirements hereinafter provided and requesting the council to pass an ordinance, resolution, order, or vote (all of these four terms being hereinafter included in the term "measure") therein set forth or designated, shall be termed an initiative petition and shall be acted upon as hereinafter provided.

SEC. 17. *Preparation of Initiative Petitions.* Signatures to initiative petitions need not all be on one paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify the place. All such papers pertaining to any one measure shall have written or printed thereon the names and addresses of at least five electors who shall be officially regarded as filing the petition, and shall constitute a committee of the petitioners for the purposes hereinafter named. All such papers shall be filed in the office of the city clerk as one instrument. Attached to every such instrument shall be a certificate signed by the committee of petitioners or a majority of them stating whether the petition is intended to be a "Fifteen Per Cent Petition" or a "Twenty-five Per Cent Petition."

SEC. 18. *Filing of Petitions.* Within ten days after the filing of the petition the clerk shall ascertain by examination the number of electors whose signatures are appended thereto and whether this number is at least fifteen per cent or twenty-five per cent, as the case may be, of the total number of electors who cast their votes at the last preceding

NOTE 13. The initiative sections were inserted by a majority vote of the committee.

regular municipal election, and he shall attach to said petition his certificate showing the result of said examination. If, by the clerk's certificate, of which notice in writing shall be given to one or more of the persons designated, the petition is shown to be insufficient it may be amended within ten days from the date of said certificate by filing supplementary petition papers with additional signatures. The clerk shall within ten days after such amendment make like examination of the amended petition, and if his certificate shall show the same to be insufficient, the clerk shall file the petition in his office and shall notify each member of the committee of that fact. The final finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

SEC. 19. *Submission of Petition to Council.* If the petition shall be found to be sufficient, the clerk shall so certify and submit the proposed measure to the council at its next meeting and the council shall at once read and refer the same to an appropriate committee, which may be a committee of the whole. Provisions shall be made for public hearings upon the proposed measure before the committee to which it is referred. Thereafter the committee shall report the proposed measure to the council, with its recommendation thereon, not later than sixty days after the date upon which such measure was submitted to the council by the clerk. Upon receiving the proposed measure from the committee the council shall at once proceed to consider it and shall take final action thereon within thirty days from the date of such committee report.

SEC. 20. *Election on Initiated Measures.* If the council shall fail to pass the proposed measure, or shall pass it in a form different from that set forth in the petition, then if the petition was a "twenty-five per cent petition" the proposed measure shall be submitted by the council to the vote of the electors at the next election occurring not less than thirty days after the date of the final action by the council, and if no election is to be held within six months

from such date, then the council shall call a special election to be held not less than thirty nor more than forty-five days from such date. But if the petition was a "fifteen per cent petition" the proposed measure shall be submitted as in the case of a "twenty-five per cent petition," except that no special election shall be called unless within thirty days after the final action by the council on the proposed measure a supplemental petition shall be filed with the clerk signed by a sufficient number of additional electors asking for the submission of the proposed measure so that the original petition when combined with such supplementary petition shall become a "twenty-five per cent petition." In case such supplementary petition is filed the council shall call a special election to be held not less than thirty nor more than forty-five days after the receipt of the clerk's certificate that a sufficient supplementary petition has been filed. The sufficiency of any such supplementary petition shall be determined, and it may be amended, in the manner provided for original petitions. When submitted the measure shall be either in its original form, or with any proposed change or addition which was presented in writing either at the public hearing before the committee to which such proposed measure was referred, or during the consideration thereof by the council; and said committee of petitioners shall certify to the clerk the requirement of submission and the proposed measure in the form desired, within ten days after the date of final action on such measure by the council. Upon receipt of the certificate and certified copy of such measure, the clerk shall certify the fact to the council at its next meeting and such measure shall be submitted by the council to the vote of the electors in a regular or special municipal election as hereinbefore provided.

SEC. 21. *Initiative Ballots.* The ballots used when voting upon any such proposed measure shall state the substance thereof, and below it the two propositions "For the measure" and "Against the measure." Immediately at the right of each proposition there shall be a square in which

by making a cross (X) the voter may vote for or against the proposed measure. If a majority of the electors voting on any such measure shall vote in favor thereof, it shall thereupon become an ordinance, resolution, order or vote of the city as the case may be.

The following shall be the form of the ballot:

TITLE OF MEASURE

With general statement of substance thereof

FOR THE MEASURE	
AGAINST THE MEASURE	

SEC. 22. *Number of Measures to be Initiated.* Any number of proposed measures may be voted upon at the same election in accordance with the provisions of this charter.

THE REFERENDUM ¹⁴

SEC. 23. *Power of Referendum.* The people shall have power at their option to approve or reject at the polls any measure passed by the council or submitted by the council to a vote of the electors, such power being known as the referendum, which power shall be invoked and exercised as herein provided. Measures submitted to the council by initiative petition and passed by the council without change, or passed in an amended form and not required by the committee of the petitioners to be submitted to a vote of the electors, shall be subject to the referendum in the same manner as other measures.

SEC. 24. *Limitations on Enforcement of Ordinances.* No measure shall go into effect until thirty days after its passage unless it be declared an emergency measure on the ground of urgent public need for the preservation of peace, health, safety, or property, the facts showing such urgency and need being specifically stated in the measure

NOTE 14. The referendum sections were inserted by a majority vote of the committee.

itself and the measure being passed by a vote of not less than four-fifths of the members of the council. But no measure granting or amending any public utility measure or amending or repealing any measure adopted by the people at the polls or by the council in compliance with an initiative petition, shall be regarded as an emergency measure.

SEC. 25. *Referendum Petition.* If within thirty days after the final passage of any measure by the council a petition signed by electors of the city to the number of at least 10 per cent of the number of electors who cast their votes at the last preceding regular municipal election, be filed with the city clerk requesting that any such measure, or any part thereof, be repealed or be submitted to a vote of the electors, it shall not, except in the case of an emergency measure, become operative until the steps indicated herein have been taken.

SEC. 26. *Signatures to Petition.* The signatures thereto need not all be on one paper, but the circulator of every such paper shall make an affidavit that each signature appended thereto is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street and number or other descriptions sufficient to identify the place. All such papers shall be filed in the office of the city clerk as one instrument. A referendum petition need not contain the text of the measure designated therein and of which the repeal is sought.

SEC. 27. *Certification of Petition.* Within ten days after the filing of the petition the clerk shall ascertain whether or not the petition is signed by the electors of the city to the number of at least 10 per cent of the number of electors who cast their votes at the last preceding regular municipal election, and he shall attach to such petition his certificate showing the results of such examination. If by the clerk's certificate the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate by the filing of supplementary petition papers with

additional signatures. The clerk shall within ten days after such amendment make like examination of the amended petition and certify the result thereof.

SEC. 28. *Referendum Election.* If the petition be found sufficient, the council shall proceed to reconsider such measure or such part thereof as the petition shall specify. If upon such reconsideration such measure, or such part thereof, be not repealed or amended as demanded in the petition, the council shall provide for submitting the same, by the method herein provided, to a vote of the electors at the next municipal election occurring not less than thirty days after the receipt by the council of the clerk's certificate, and such measure, or such part thereof, shall thereupon be suspended from going into effect until said election and shall then be deemed repealed unless approved by a majority of those voting thereon. Or the council by a four-fifths vote may submit such measure or part thereof with like effect to the electors at a special election to be called by said council not less than thirty days after the receipt of said clerk's certificate.

SEC. 29. *Title of Ballot.* Proposed measures and charter amendments shall be submitted by ballot title. There shall appear upon the official ballot a ballot title which may be distinct from the legal title of any such proposed measure or charter amendment and which shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such measure or charter amendment. The ballot title shall be prepared by the committee of the petitioners if for an initiated or a referendum measure, or by a committee of the council when submitted by the council.

SEC. 30. *Form of Ballot.* The ballots used when voting upon such proposed measure shall designate the same, and below it the two propositions, "For the measure" and "Against the measure."

SEC. 31. *Emergency Measures.* Measures passed as emergency measures shall be subject to referendum like

other measures, except that they shall not be suspended from going into effect while referendum proceedings are pending. If, when submitted to a vote of the electors, an emergency measure be not approved by a majority of those voting thereon, it shall be considered repealed, as regards any further action thereunder and all rights and privileges conferred by it shall be null and void: *Provided however*, that such measure so repealed shall be deemed sufficient authority for any payment made or expense incurred in accordance with the measure previous to the referendum vote thereon.

SEC. 32. *Official Publicity Pamphlet.* The city clerk, at least fifteen days before any election at which any measure or charter amendment is to be submitted, shall print and mail to each elector qualified to vote thereon an official publicity pamphlet containing the full text of every measure or charter amendment submitted, with their respective ballot titles, together with arguments, for or against such measures or charter amendments, which may have been filed with the city clerk not less than twenty days before such election. Such arguments shall be signed by the person, persons, or officers of organizations authorized to submit and sign the same, who shall deposit with the city clerk at the time of filing a sum of money sufficient to cover the proportionate cost of the printing and paper for the space taken, but no more. The text of every measure or charter amendment shall also be displayed at the polling booths in such election. *Provided*, that the validity of a measure or charter amendment approved by the electors shall not be questioned because of errors or irregularities in such mailing, distribution or display.

SEC. 33. *Conflict of Referred Measures.* If two or more measures adopted or approved at the same election conflict in respect of any of their provisions, they shall go into effect in respect of such of their provisions as are not in conflict and the one receiving the highest affirmative vote shall prevail in so far as their provisions conflict.

ADMINISTRATIVE SERVICES—THE CITY MANAGER ¹⁵

SEC. 34. *The City Manager.* The city manager shall be the chief executive officer of the city. He shall be chosen by the council solely on the basis of his executive and administrative qualifications. The choice shall not be limited to inhabitants of the city or state.¹⁶

The city manager shall receive a compensation of not less than _____ a year.¹⁷ He shall be appointed for an indefinite period. He shall be removable by the council. If removed at any time after six months he may demand written charges and a public hearing on the same before the council prior to the date on which his final removal shall take effect, but during such hearing the council may suspend him from office. During the absence or disability of the city manager the council shall designate some properly qualified person to perform the duties of the office.

SEC. 35. *Powers and Duties of the City Manager.* The city manager shall be responsible to the council for

NOTE 15. While the manager plan herein proposed is probably the most advanced and scientific form of municipal organization yet suggested, it is of the highest importance that any city adopting the plan should not omit any of the other principal features accompanying it in this draft. Without these provisions the manager plan, owing to its concentration of executive and administrative authority in the manager, might prove to be susceptible to perversion in the interests of a boss in cities with an undeveloped and inactive public opinion, because the members of council might then be elected upon a slate pledged beforehand to the selection of some particular candidate as manager.

It is also true that no form of government can in and of itself produce good results. The most that any plan can do is to provide an organization which lends itself to efficient action, and which at the same time places in the hands of the electorate simple and effective means for controlling their government in their own interests. The evils in city government due to defective and undemocratic organization can thus be removed; beyond that, results can only be achieved through the growth of an active and enlightened public opinion.

NOTE 16. The foreign plan of publicly advertising for a burgomeister and heads of departments and selecting the ones who show the highest qualifications has been highly successful.

NOTE 17. The minimum salary would vary according to the size of the city and the responsibilities of the office. Dayton, Ohio, a city of 117,000 inhabitants, paid its first city manager a salary of \$12,500 per year.

the proper administration of all affairs of the city, and to that end shall make all appointments, except as otherwise provided in this charter. Except when the council is considering his removal, he shall be entitled to be present at all meetings of the council and of its committees and to take part in their discussion.

SEC. 36. *Annual Budget.* The city manager shall prepare and submit to the council the annual budget after receiving estimates made by the directors of the departments.

ADMINISTRATIVE DEPARTMENTS

SEC. 37. *Administrative Departments Created.* There shall be six administrative departments as follows: Law, health, works and utilities, safety and welfare, education,¹⁸ and finance, the functions of which shall be prescribed by the council except as herein otherwise provided. The council shall fix all salaries, which in the classified service shall be uniform for each grade, as established by the civil service commission, and the council may, by a three-fourths vote of its entire membership, create new departments, combine or abolish existing departments or establish temporary departments for special work.¹⁹

NOTE 18. In places where the school system works well under a separate organization it had better not be disturbed, and in such cases the department of education will generally have to be omitted.

NOTE 19. The number of departments may be increased or diminished according to the population or other local needs of a given city. Where it is increased it will probably be desirable to divide the department of safety and welfare into two departments, and in some cases to divide the department of safety into police and fire departments. The department of utilities may be separated from department of public works when (1) the utilities are privately owned, so that their administration is chiefly regulative; and (2) in large cities where the department of works and utilities would make too large a department or where it seems desirable to put all the revenue-producing industries in one department. In reducing the number of departments, those of law, health, and finance might be cut out in the order named, either joining them with other departments (as health with welfare and safety) or making them directly subordinate to the city manager.

The number of departments can be kept down in the larger cities and reduced in the smaller ones (1) by the creation of department bureaus and (2) where so complex an organization as a bureau is not needed by having

SEC. 38. *Duties of Directors of Departments.* At the head of each department there shall be a director. Each director shall be chosen on the basis of his general executive and administrative experience and ability and of his education, training and experience in the class of work which he is to administer. The director of the department of law shall be a lawyer; of health, a sanitary engineer or a member of the medical profession; of works, an engineer; of education, a teacher by profession; of safety and welfare, a man who has had administrative experience; and of finance, a man who has had experience in banking, accounting or other financial matters; or in each case the man must have rendered active service in the same department in this or some other city.

Each director shall be appointed by the city manager and may be removed by him at any time; but in case of such removal, if the director so demands, written charges must be preferred by the city manager, and the director shall be given a public hearing before the order of removal is made final. The charges and the director's reply thereto shall be filed with the clerk of council.

SEC. 39. *Responsibility of Directors of Departments.* The directors of departments shall be immediately responsible to the city manager for the administration of their departments, and their advice in writing may be required by him on all matters affecting their departments. They shall prepare departmental estimates, which shall be open to public inspection, and they shall make all other reports and recommendations concerning their departments at stated intervals or when requested by the city manager.

SEC. 40. *Powers of Subpoena.* The council, the city manager, and any officer or board authorized by them, or either of them, shall have power to make investigations as

the proper official report directly to the city manager instead of to a department head.

The principle underlying the formation of departments and bureaus should be twofold: (1) functional grouping and (2) tasks which demand the time and capacity of the highest grade of administrative heads—i. e., one first-class full-time man to head each department.

to city affairs, to subpoena witnesses, administer oaths, and compel the production of books and papers.

CIVIL SERVICE BOARD

SEC. 41. *Creation of Civil Service Board.* A civil service board shall be appointed by the council to consist of three members. The terms of the members when the first appointments are made shall be so arranged as to expire one every two years, and each appointment made thereafter upon the expiration of any term shall be for six years. The council shall also fill any vacancy for an unexpired term. A member of the board shall be removable for neglect, incapacity, or malfeasance in office by a four-fifths vote of the council, after written charges upon at least ten days' notice and after a public hearing.

The board shall employ a secretary and a chief examiner (but the same person may perform the duties of both offices) and such further examiners and such clerical and other assistance as may be necessary, and shall determine the compensation of all persons so employed. Provision shall be made in the annual budget and appropriation bill for the expenses of the board.

SEC. 42. *Power to Make Rules and What the Rules Shall Provide.* The board shall, after public notice and hearing, make, promulgate, and, when necessary, amend rules for the appointment, promotion, transfer, lay off, reinstatement, suspension, and removal of city officials and employees, reporting its proceedings to the council and to the city manager when required. Such rules shall, among other things, provide:

(a) For the standardization and classification of all positions and employments in the civil service of the city. The classification into groups and subdivisions shall be based upon and graded according to their duties and responsibilities and so arranged as to promote the filling of the higher grades, so far as practicable, through promotion. All salaries shall be uniform for like service in each grade as the same shall be standardized and classified by the civil

service board. The civil service so standardized and classified shall not include officers elected by the people, the city manager, nor the judges, and may or may not include the directors of executive departments, or the superintendents, principals, and teachers of the public schools, as may be directed by the council.

(b) For open competitive tests, to ascertain the relative fitness of all applicants for appointment to the classified civil service of said city, including mechanics and laborers—skilled and unskilled. Such tests shall be practical and shall relate to matters which will fairly measure the relative fitness of the candidate to discharge the duties of the positions to which they seek to be appointed. Notice of such tests shall be given not less than ten days in advance by public advertisement in at least one newspaper of general circulation, and by posting a notice in the city hall. The board may, by unanimous vote, provide for non-competitive tests for any position requiring peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character, but all such actions of the board with the reasons therefor shall be published in its annual report.

(c) For the creation of eligible lists upon which shall be entered the names of successful candidates in the order of their standing in examination, and for the filling of places in the civil service of the city by selection from not more than the three candidates graded highest on such eligible lists. Eligible lists shall remain in force not longer than two years.

In the absence of an appropriate eligible list, any place may be filled temporarily without examination for a period limited by the rules, but not to exceed sixty days, during which time the board shall hold the necessary examination for filling the place permanently. With the consent of the board persons may be temporarily employed for transitory work without examination, but such employment shall not continue for more than sixty days, or be renewed.

No person shall be appointed or employed under any title not appropriate to the duties to be performed, and no person shall be transferred to or assigned to perform any duties of any position subject to competitive tests unless he shall have been appointed to the position from which transfer is made as the result of an open competitive test equivalent to that required for the position to be filled, or unless he shall have served with fidelity for at least two years immediately preceding in a similar position in the city. Each list of eligibles, with the respective grades, shall be open to public inspection.

Any person appointed from an eligible list and laid off for lack of work or of appropriation shall be placed at the head of the eligible list and shall be eligible for reappointment for the period of eligibility as provided by the rules of the board.

(d) For a period of probation not exceeding six months before an appointment or employment is made permanent.

(e) For reinstatement on the eligible lists of persons who without fault or delinquency are separated from the service.

(f) For promotion from the lower grades to the higher, based upon competitive records of efficiency and seniority to be furnished by the departments in which the person is employed and kept by said civil service board, or upon competitive promotion tests, or both. Appointments to such higher positions as shall be specified by the board may, if the city manager approves be made after competitive tests in which persons not in the service of the city may also compete as well as applicants for such positions from the lower grades of the service or from other branches thereof; and the appointments shall be made to such higher positions from those standing highest as in the case of other competitive tests. An increase in compensation within a grade may be granted upon the basis of efficiency and seniority records.

SEC. 43. *Supervisory Powers of Civil Service Board.*
It shall be the duty of the civil service board to supervise

the execution of the civil service sections and the rules made thereunder, and it shall be the duty of all persons in the public service of said city to comply with said rules and aid in their enforcement.

The said board shall keep public records of its proceedings, of the markings and gradings upon examinations, and of all recommendations or certificates of the qualifications of applicants for office or employment; and it shall also keep a public record of the conduct and efficiency of each person in the service of the city, to be furnished by the head of the department in which such person is employed in such form and manner as the board may prescribe.

The board may make investigations concerning the facts in respect to the execution of the civil service sections and of the rules established thereunder and concerning the general condition of the civil service of the city or any branch thereof. The board shall fix standards of efficiency and recommend measures for coordinating the operation of the various departments and for increasing individual, group, and departmental efficiency. Each member of the board, or any person whom the board may appoint to make such investigations, shall have power to administer oaths, to compel the production of books and papers, and to subpoena witnesses.

The board shall keep a complete public roster of all persons in the service of the city and certify to the proper official the name and compensation of each person employed; also every change occurring in any office or employment; and no treasurer or other public disbursing officer shall pay and no controller or other auditing officer shall authorize the payment of any salary or compensation to any person holding a position in the classified service, unless the pay roll or account for such salary or compensation shall bear the certificate of the board that the person named therein has been appointed or employed and is performing services in accordance with the provisions of this charter and the rules hereby authorized. Any sums paid

contrary to the provisions of this section may be recovered from any officer paying or authorizing the payment thereof and from the sureties on his official bond.

SEC. 44. *Power of Removal and Suspension.* Any officer or employee in the classified service may be removed, suspended, laid off, or reduced in grade by the city manager or by the head of the department in which he is employed, for any cause which will promote the efficiency of the service; but he must first be furnished with a written statement of the reasons therefor and be allowed a reasonable time for answering such reasons in writing, which answer, if he so request, shall (so far as the same is relevant and pertinent) be made a part of the records of the board; and he may be suspended from the date when such written statement of reasons is furnished him. No trial or examination of witnesses shall be required in such case except in the discretion of the officer making the removal. In all cases provided for in this paragraph the action of the city manager or head of the department shall be final.

The civil service board shall also have the right to remove or reduce any official or employee in the classified service upon written charges of misconduct preferred by any citizen, but only after reasonable notice to the accused and full hearing. It shall also be the duty of the board to fix a minimum standard of conduct and efficiency for each grade in the service, and whenever it shall appear from the reports of efficiency made to said board, for a period of three months, that the conduct and efficiency of any employee has fallen below this minimum, that employee shall be called before the board to show cause why he should not be removed, and if upon hearing no reason is shown satisfactory to the board he shall be removed, suspended, or reduced in grade, as the board shall determine.

SEC. 45. *Restrictions on Civil Service Appointees and Forbidden Practices.* No person shall willfully or corruptly make any false statements, certificate, mark, grading, or report in regard to any examination or appointment held

or made under this article, or in any other manner attempt to commit any fraud upon the impartial execution of this article or of the civil service rules and regulations.

No person in the classified service shall directly or indirectly give, solicit, or receive or be in any manner concerned in giving, soliciting, or receiving any assessment, subscription, or contribution for any political party or purpose whatever. No person whosoever shall orally or by letter solicit or be in any manner concerned in soliciting any assessment, subscription, or contribution for any political party or purpose from any person holding a position in the classified service. No person shall use or promise to use his influence or official authority to secure any appointment or prospect of appointment to any position classified and graded under this charter as a reward or return for personal or partisan political service. No person about to be appointed to any position classified and graded under this charter shall sign or execute a resignation dated or undated in advance of such appointment. No person in the service of the city shall discharge, suspend, lay off, degrade, or promote, or in any manner change the official rank or compensation of any other person in said service, or promise or threaten to do so for withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

No person shall take part in preparing any political assessment, subscription, or contribution with the intent that the same shall be sent or presented to or collected from any person in the classified service of the city; and no person shall knowingly send or present, directly or indirectly, in person or by letter, any political assessment, subscription, or contribution to, or request its payment by any person in the classified service.

No person in the service of the city shall use his official authority or influence to coerce the political action of any person or body, or to interfere with any nomination or election to public office.

No person holding office or place classified and graded under the provisions of this article shall act as an officer of a political organization or take any active part in a political campaign or serve as a member of a committee of any such organization or circulate or seek signatures to any petition provided for by any primary or election laws, other than an initiative or referendum petition, or act as a worker at the polls in favor of or opposed to any candidate for election or nomination to a public office, whether federal, state, county or municipal.

SEC. 46. *Politics and Religion Excluded.* No question in any examination held hereunder shall relate to political or religious opinions, affiliations, or service; and no appointment, transfer, lay off, promotion, reduction, suspension or removal shall be affected or influenced by such opinions, affiliations or service.

SEC. 47. *Violations of Civil Service Rules and Regulations.* Any person who shall willfully, or through culpable negligence, violate any of the civil service provisions of this charter or of the rules of the board made in pursuance thereof shall be guilty of a misdemeanor, and shall, on conviction, be punished by a fine of not less than \$50 nor more than \$1,000, or by imprisonment for a term not exceeding six months, or by both such fine and imprisonment. If such person be an applicant for examination he shall be excluded therefrom. If he be an eligible his name shall be removed from the eligible list, and if he be an officer or employee of the city he shall thereby be removed forthwith from the service.

SEC. 48. *Power of Taxpayer to Enforce Rules.* Any taxpayer in the city may maintain an action to recover for the city any sum of money paid in violation of the civil service provisions, or to enjoin the board from attaching its certificate to a payroll or account for services rendered in violation of this charter or the rules made thereunder; and the rules made under the foregoing provisions shall for this and all other purposes have the force of law.

FINANCIAL PROVISIONS

SEC. 49. *The Director of Finance.* The director of finance shall have direct supervision over the department of finance and the administration of the financial affairs of the city, including the keeping of accounts and financial records; the levy, assessment and collection of taxes, special assessments, and other revenues (except as otherwise provided by general law); the custody and disbursement of city funds and moneys; the control over expenditures; and such other duties as the council may, by ordinance, provide.

SEC. 50. *Accounts and Records.* Accounts shall be kept by the department of finance showing the financial transactions for all departments of the city. Forms for all such accounts shall be prescribed by the director of finance with the approval of the city manager; and shall be adequate to record all cash receipts and disbursements, all revenues accrued and liabilities incurred, and all transactions affecting the acquisition, custody, and disposition of values, and to make such reports of the financial transactions and condition of the city as may be required by law or ordinance. Financial reports shall be prepared for each quarter and each fiscal year, and for such other periods as may be required by the city manager, or the council.

SEC. 51. *Annual Budget.* Not later than one month before the end of each fiscal year the city manager shall prepare and submit to the council an annual budget for the ensuing fiscal year, based upon detailed estimates furnished by the several departments and other divisions of the city government, according to a classification as nearly uniform as possible. The budget shall present the following information:

(a) An itemized statement of the appropriations recommended by the city manager for current expenses and for permanent improvements for each department and each division thereof for the ensuing fiscal year, with comparative statements in parallel columns of the appropriations

and expenditures for the current and next preceding fiscal year, and the increases or decreases in the appropriations recommended;

(b) An itemized statement of the taxes required and of the estimated revenues of the city from all other sources for the ensuing fiscal year, with comparative statements in parallel columns of the taxes and other revenues for the current and next preceding fiscal year, and of the increases or decreases estimated or proposed;

(c) A statement of the financial condition of the city; and

(d) Such other information as may be required by the council.

Copies of the budget shall be printed and available for distribution not later than two weeks after its submission to the council; and a public hearing shall be given thereon by the council or a committee thereof before action by the council.

SEC. 52. *Appropriation Ordinance. Temporary Appropriations. Transfers.* Not later than one month after the beginning of the fiscal year the council shall pass an annual appropriation ordinance, which shall be based on the budget submitted by the city manager. The total amount of appropriations shall not exceed the estimated revenues of the city.

Before the annual appropriation ordinance has been passed, the council, with the approval in writing of the city manager, may make appropriations for current department expenses, chargeable to the appropriations of the year when passed, to an amount sufficient to cover the necessary expenses of the various departments until the annual appropriation is in force. No other liabilities shall be incurred by any officer or employee of the city, except in accordance with the provisions of the annual appropriation ordinance or under continuing contracts and loans authorized under the provisions of this charter.

At any meeting after the passage of the appropriation ordinance, and after at least one week's public notice, the

council, by a three-fourths vote, may amend such ordinance, so as to authorize the transfer of unused balances appropriated for one purpose to another purpose, or to appropriate available revenues not included in the annual budget.

SEC. 53. *Tax Levy.* On or before the day of _____ in each year, the council shall, by ordinance, levy such tax as may be necessary to meet the appropriations made (less the estimated amount of revenue from other sources) and all sums required by law to be raised on account of the city debt, together with such addition, not exceeding five per cent, as may be necessary to meet commissions, fees, and abatements in the amount of taxes collected from the estimates.

SEC. 54. *Assessment of Property.* All property subject to *ad valorem* taxation shall be valued at its fair market value, subject to review and equalization, as provided by law or ordinance. In valuing improved real estate for taxation the market value of the land shall be valued separately; and improvements thereon shall be valued at the amount by which they increase the value of the land.

SEC. 55. *Special Assessments.* The council shall have power by ordinance to provide for the payment of all or any part of the cost of the construction, reconstruction, repair, operation, or maintenance of any structure or work in the nature of a public improvement, including a public utility, by levying and collecting special assessments upon abutting, adjacent and contiguous, or other property specially benefited. Such special assessments for works of construction or reconstruction may be payable in installments within a period of not more than ten years. The amount so assessed against any property shall not exceed the amount of benefits accruing to such property from such improvement and the operation thereof. Provisions shall be made by ordinance for the method of levying and apportioning such special assessments, for the publication of plans, for serving notices on the owners of property affected, and for hearing complaints and claims before final action thereon.

SEC. 56. *Bond Issues.* Money may be borrowed by the issue and sale of bonds, pledged on the credit of the city, or on the property or revenues of any public utility owned by the city, for the purchase of land, the construction and equipment of buildings and other permanent public improvements, and for the payment or refunding of bonds previously issued. No ordinance providing for the issue of bonds shall be passed without public notice at least two weeks before final action by the council, and either the approval of two-thirds of all the members of the council or submission to the electors of the city at a regular or special election and the approval of a majority of those voting thereon. No bonds shall be issued on the credit of the city which shall increase the bonded indebtedness of the city beyond _____ per cent of the assessed valuation of property in the city subject to direct taxation, as shown by the last preceding valuation for city taxes.²⁰ Every issue of bonds shall be payable within a term of years not to exceed the estimated period of utility of the improvement for which they are issued, and in no case to exceed thirty years;²¹ and shall be payable in equal annual serial installments, including principal and interest. Every ordinance for the issue of bonds shall provide for a tax levy for each year to meet the annual serial installments of principal and interest, and such amounts shall be included in the tax levy for each year.²²

SEC. 57. *Temporary Loans.* Money may be borrowed, in anticipation of the receipts from taxes during any fiscal year, by the issue of notes, certificates of indebtedness, or revenue bonds; but the aggregate amount of such loans at any time outstanding shall not exceed _____ per cent

NOTE 20. If desired, provision may be made for the issue of bonds outside the debt limit on the credit of the city or self-sustaining utilities.

NOTE 21. In cities where subways and other improvements of extraordinary cost and permanency may be needed this period may be extended to fifty years.

NOTE 22. For cities having sinking funds, provision should be made for their continuation and management until maturity. The sinking fund board may consist of the mayor, the director of finance and three other members appointed by the council for a term of four years, to serve without compensation.

of the receipts from taxes during the preceding fiscal year; and all such loans shall be paid out of the receipts from taxes for the fiscal year in which they are issued. If upon the day of there shall be any outstanding loans or notes for money borrowed in anticipation of taxes prior to the adoption of this charter, such loans or any part thereof may be renewed or refunded by the issue of notes, certificates of indebtedness, or revenue bonds, payable in equal annual installments with interest for not more than five successive years. No temporary loans authorized by this section shall be made without public notice at least two weeks before final action by the council, and the approval of two-thirds of all the members of the council.

SEC. 58. *Restrictions on Loans and Credit.* No money shall be borrowed by the city except for the issue of bonds or temporary loans, as authorized by sections 56 and 57 of this charter, and subject to the limitations prescribed by law and this charter. The credit of the city shall not in any manner be given or loaned to or in aid of any individual, association, or corporation, except that suitable provision may be made for the aid and support of its poor.

SEC. 59. *Collection and Custody of City Moneys.* All taxes, special assessments, and license fees accruing to the city shall be collected by officers of the department of finance. All moneys received by any officer or employee of the city for or in connection with the business of the city shall be paid promptly into the city treasury, and shall be deposited with such responsible banking institutions as furnish such security as the council may determine and shall agree to pay the highest rate of interest; and all such interest shall accrue to the benefit of the city. The council shall provide by ordinance for the prompt and regular payment and deposit of all city moneys as required by this section.

SEC. 60. *Contracts and Purchases.* No continuing contract (which involves the payment of money out of the appropriations of more than two years) except public

utility franchises shall be made for a period of more than ten years; and no such contract shall be valid without public notice at least two weeks before final action of the council and the approval of two-thirds of all the members of the council, or submission to the electors of the city at a regular or special election and the approval of a majority of those voting thereon.

Any public work or improvement costing more than one thousand dollars shall be executed by contract, except where a specific work or improvement is authorized by the council based on detailed estimates submitted by the department authorized to execute such work or improvement. All contracts for more than one thousand dollars shall be awarded to the lowest responsible bidder, after public advertisement and competition, as may be prescribed by ordinance. But the city manager shall have the power to reject all the bids and to advertise again; and all advertisements shall contain a reservation of this right.

SEC. 61. *Payment of Claims.* Payments by the city shall be made only upon vouchers certified by the head of the appropriate department or other division of the city government, and by means of warrants on the city treasury issued by the director of finance and countersigned by the city manager. The director of finance shall examine all payrolls, bills and other claims and demands against the city; and shall issue no warrants for payment unless he finds that the claim is in proper form, correctly computed, and duly certified; that it is justly and legally due and payable; that an appropriation has been made therefor which has not been exhausted or that the payment has been otherwise legally authorized; and that there is money in the city treasury to make payment. He may require any claimant to make oath to the validity of a claim. He may investigate any claim, and for such purposes may examine witnesses under oath; and if he finds it is fraudulent, erroneous, or otherwise invalid, shall not issue a warrant therefor.

SEC. 62. *Audit of Accounts.* Upon the death, resignation, removal or expiration of the term of any officer

of the city, other than the director of finance, the director of finance shall make an audit and investigation of the accounts of such officer, and shall report to the city manager and council.

As soon as practicable after the close of each fiscal year an annual audit shall be made of all the accounts of all city officers; and upon the death, resignation, removal or expiration of the term of the director of finance, an audit shall be made of his accounts. Such audits shall be made under the provisions of any law for the inspection and audit of municipal accounts by state officers; and if there is no such state inspection such audits shall be made by qualified public accountants, selected by the council, who have no personal interest, direct or indirect, in the financial affairs of the city or of any of its officers or employees. The council may at any time provide for an examination or audit of the accounts of any officer or department of the city government.

PUBLIC UTILITIES ²³

SEC. 63. *Granted by Ordinance.* All public utility franchises and all renewals, extensions and amendments

NOTE 23. The public utility and franchise policy embodied in a model city charter should be so formulated as to conserve and further the following purposes:

I. To secure to the people of the city the best public utility service that is practicable.

II. To secure and preserve to the city as a municipal corporation the fullest possible control of the streets and of their special uses.

III. To remove as far as practicable the obstacles in the way of the extension of municipal ownership and operation of public utilities, and to render practicable the success of such ownership and operation when undertaken.

IV. To secure for the people of the city public utility rates as low as practicable, consistent with the realization of the three purposes above set forth.

It should be no part of such policy to secure compensation for franchises or special revenues for general city purposes by an indirect tax upon the consumers of public utility services.

In formulating a policy to carry out the four purposes above stated the following principles should be recognized:

1. Each utility serving an urban community should be treated as

thereof shall be granted or made only by ordinance; but no such proposed ordinance shall be adopted until it has been printed in full and until a printed report containing recommendations thereon shall have been made to the council by the city manager [or the bureau of franchises], until adequate public hearings have thereafter been held on such ordinance and until at least two weeks after its official publication in final form. No public utility franchise shall be transferable except with the approval of the council expressed by ordinance; and copies of all transfers and mortgages or other documents affecting the title or use of public utilities shall be filed with the city manager within ten days after the execution thereof.

SEC. 64. *Term and Plan of Purchase.* Any public utility franchise may be terminated by ordinance at specified intervals of not more than five years after the beginning of operation, whenever the city shall determine to acquire by condemnation or otherwise the property of such utility necessarily used in or conveniently useful for the operation

far as practicable as a monopoly with the obligations of a monopoly; and its operation within the city should be based as far as practicable upon a single comprehensive ordinance or franchise grant uniform in its application to all parts of the city and to all extensions of plant and service.

2. Every franchise should be revocable by the city upon just compensation being paid to its owners when the city is prepared to undertake public ownership.

3. The control of the location and character of public utility fixtures, the character and amount of service rendered, and the rates charged therefor should be reserved to the city, subject to reasonable review by the courts or a state utilities commission where one exists.

4. The granting and enforcement of franchises and the regulation of utilities operating thereunder should be subject to adequate public scrutiny and discussion and should receive full consideration by an expert bureau of the city government established and maintained for that purpose, or, in case the maintenance of such bureau is impracticable, by an officer or committee designated for the purpose.

5. Private investments in public utilities should be treated as investments in aid of public credit and subject to the public control and should be safeguarded in every possible way, and the rate of return allowed thereon should be reduced to the minimum return necessary in the case of safe investments with a fixed and substantially assured fair earning power.

thereof within the city limits.²⁴ The method of determining the price to be paid for the public utility property shall be fixed in the ordinance granting the franchise.

SEC. 65. *Right of Regulation.* All grants, renewals, extensions, or amendments of public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the city:

(a) To repeal the same by ordinance at any time for misuse or non-use, or for failure to begin construction within the time prescribed, or otherwise to comply with the terms prescribed;

(b) To require proper and adequate extensions of plant and service, and the maintenance of the plant and fixtures at the highest practicable standard of efficiency;

(c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.²⁵

(d) To prescribe the form of accounts and at any time to examine and audit the accounts and other records or any such utility and to require annual and other reports by each such public utility; *Provided*, that if a public service commission or any other authority shall be given the power by law to prescribe the forms of accounts for public utilities throughout the state or throughout any district of which the city is a part, the forms so prescribed shall be controlling so far as they go, but the council may prescribe more detailed forms for the utilities within its jurisdiction:

(e) To impose such other regulations as may be conducive to the safety, welfare, and accommodation of the public.

NOTE 24. Where a term limit for the franchise is desired provision should be made either for amortization of the investment, or at least of that portion of it within the limits of the public streets and places, during the term of the grant, or for purchase of the physical property at the end of the term.

NOTE 25. A franchise should include provisions for the readjustment of rates from time to time, or for the accumulation of surplus earnings for the purchase of the property in case rates are fixed for a long period in the grant.

SEC. 66. *Consents of Property Owners.* The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility;²⁶ but any property owner shall be entitled to recover from the owner of such public utility the actual amount of damages to such property on account thereof less any benefits received therefrom, provided, suit is commenced within two years after the damage is begun.

SEC. 67. *Revocable Permits.* Permits revocable at the will of the council for such minor or temporary public utility privileges as may be specified by general ordinance may be granted and revoked by the council from time to time in accordance with the terms and conditions to be prescribed thereby; and such permits shall not be deemed to be franchises as the term is used in this charter. Such general ordinance, however, shall be subject to the same procedure as an ordinance granting a franchise and shall not be passed as an emergency measure.

SEC. 68. *Extensions.* All extensions of public utilities within the city limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in section 64 hereof. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same times and under the same conditions as the original grant.

SEC. 69. *Other Conditions.* Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in sections 63 to 72 hereof, whether or not such terms are specifically mentioned in

NOTE 26. In some states there are constitutional provisions requiring the consent of adjacent property owners for the construction and operation of street railways. The constitution of New York requires such consent, or in lieu thereof approval of the proposed construction by commissioners appointed by the appellate division of the Supreme court, and confirmed by the Court. Some such provision as the latter may be desirable.

the franchise. Nothing in this charter shall operate to limit in any way, except as specifically stated, the discretion of the council or the electors of the city in imposing terms and conditions in connection with any franchise grant.

SEC. 70. *Franchise Records.* Within six months after this charter takes effect every public utility and every owner of a public utility franchise shall file with the city, as may be prescribed by ordinance, certified copies of all the franchises owned or claimed, or under which any such utility is operated. The city shall compile and maintain a public record of all public utility franchises and of all public utility fixtures in the streets of the city.

SEC. 71. *Bureau of Franchises and Public Utilities.* There shall be established by ordinance a bureau of franchises and public utilities, at the head of which shall be an officer to be appointed by the city manager.²⁷ This officer shall be an expert in franchise and public utility matters, and he shall be provided with such expert and other assistance as is necessary to enable him to perform his duties. It shall be the duty of this officer and bureau to investigate and report on all proposed ordinances relating to public utilities, to exercise a diligent oversight over the operation of all public utilities operated under franchises, to report thereon with recommendations to the city manager, to represent the city in all, except legal proceedings before any state public utilities commission involving the public utilities within the city, and to perform such other duties under the direction of the city manager as may be prescribed by the council.

SEC. 72. *Accounts of Municipally Owned Utilities.* Accounts shall be kept for each public utility owned or

NOTE 27. In the smaller cities, say those of less than 50,000 population, it may not be feasible to maintain a separate bureau of franchises and public utilities, but in every city where there is no such bureau the duties described in this section should be specifically imposed upon the city manager. The bureau, when one exists, will be a part of the department of public works and utilities; but in the large cities it may be found desirable to create a separate department of utilities as suggested in note 19.

operated by the city, distinct from other city accounts and in such manner as to show the true and complete financial result of such city ownership, or ownership and operation, including all assets, liabilities, revenues, and expenses. These accounts shall show the actual cost to the city of each public utility owned; the cost of all extensions, additions and improvements; all expenses of maintenance; the amount set aside for sinking fund purposes; and, in the case of city operation, all operating expenses of every description. They shall show as nearly as possible the value of any service furnished to or rendered by any such public utility by or to any other city or governmental department. They shall also show a proper allowance for depreciation, insurance, and interest on the investment, and estimates of the amount of taxes that would be chargeable against the property if privately owned. The council shall annually cause to be made and printed for public distribution a report showing the financial results of such city ownership, or ownership and operation, which report shall give the information specified in this section and such other information as the council shall deem expedient.

CITY PLANNING

SEC. 73. *Creation of a City Planning Board.* There shall be a city planning board of three members, consisting of the director of public works and utilities and two citizen members chosen because of their knowledge of city planning.²⁸ It shall be the duty of the board to keep itself informed of the progress of city planning in this and other countries, to make studies and recommendations for the improvement of the plan of the city with a view to the present and future movement of traffic, the convenience, amenity, health, recreation, general welfare, and other needs of the city dependent on the city plan; to consider and report upon the designs and their relations to the city plan, of all new public ways, lands, buildings, bridges, and

NOTE 28. In larger cities having a separate director of utilities a board of five members, consisting of the director of public works, the director of utilities, and three citizen members, is recommended.

all other public places and structures, of additions to and alterations in those already existing, and of the layout or plotting of new subdivisions of the city, or of territory adjacent to or near the city.

SEC. 74. *Power of Board.* All acts of the council or of any other branch of the city government affecting the city plan shall be submitted to the board for report and recommendations. The council may at any time call upon the board to report with recommendations, and the board of its own volition may also report to the council with recommendations on any matter which, in the opinion of either body, affects the plan of the city.

Any matter referred by the council to the board shall be acted upon by the board within thirty days of the date of reference, unless a longer or shorter period is specified. No action by the council involving any points hereinbefore set forth shall be legal or binding until it has been referred to the board and until the recommendations of the board thereon have been accepted or rejected by the council.

SEC. 75. *Annual Report.* The board shall submit to the council an annual report summarizing the activities of the board for the fiscal year, the recommendations made by it to the council during the year and the action of the council during the year on any and all recommendations made by the board in that or former years. The annual report of the board shall also contain a program for improvements to the city plan year by year during the three years next ensuing, with estimates of the cost thereof and recommendations as to how the cost shall be met.

SEC. 76. *Secretary of the Board.* The board shall appoint as secretary a person of skill and experience in city planning and may employ consulting city planning experts as need may arise. The city engineer shall serve as chief engineer of the city planning board, and it shall be his particular duty to make recommendations designed to bring all the engineering works of the city into harmony as parts of one comprehensive plan. The executive health officer of the city shall advise the planning board from

time to time of any municipal improvements within the scope of the board which, in his opinion, would improve the healthfulness of the city. The board shall have power to call upon any branch of the city government at any time for information and advice which in the opinion of the board will insure the efficiency of its work.²⁹

MISCELLANEOUS PROVISIONS

SEC. 77. *Publicity of Accounts.* All accounts and the records of every office and department of the city shall be open to the public at all reasonable times under reasonable regulations, except records and documents from which might be secured information which might defeat the lawful purpose of the officer or department withholding them from access to the public.

SEC. 78. *No Personal Interest.* No member of the council nor any officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, or be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies, or services, except on behalf of the city as a member of the council, officer, or employee; *Provided*, that the ownership of less than 5 per cent of the stock or shares of a corporation or association with which a contract may be made shall not be considered as involving an interest in the contract within the meaning of this section. No officer or employee of a public utility operating in the city shall be a member of the council. Any willful violation of this section shall constitute malfeasance in office, and any member of the council, officer, or employee found guilty thereof shall thereby forfeit his office or position. Any violation of

NOTE 29. In some places it may be desirable to give the city planning board some of the powers conferred on the existing municipal art commissions in the United States. These powers relate to the aesthetic features of public buildings, bridges, and other public structures, and embrace the acceptance or rejection of works of art or designs therefor to be placed in public buildings or in other places within the city. The section in the Cleveland charter relating to city planning commission and the ordinance based on it are commended for careful consideration, especially the method provided for the effective control of land subdivision.

this section, with the knowledge, expressed or implied, of the person or corporation contracting with the city, shall render the contract involved voidable by the city manager or the council.

SEC. 79. *When Charter Shall Take Effect.* For the purpose of nominating and electing officers as provided herein, this charter shall take effect from and after the time of its approval by the electors of the city. For the purpose of exercising the powers of the city, establishing departments, divisions, and offices, and distributing the functions thereof, and for all other purposes, it shall take effect on the first day of

APPENDIX A PREFERENTIAL BALLOT

(To be inserted, if desired, after section II of the charter)

SECTION 12. *Preparation of Ballot.* All ballots used in elections held under the authority of this charter shall be printed by the city and shall contain the names of the candidates without party or other designation. The order or arrangement of the names shall be alphabetical in rotation; that is, there shall be as many sets of ballots printed as there are candidates. Each set of ballots shall begin with the name of a different candidate, the other names being arranged thereafter in regular alphabetical order commencing with the name next in alphabetical order after the one that stands first on that set of ballots. When the last name is reached in alphabetical order it shall be followed by the name that begins with the first letter represented in the list of names and by the others in regular order. The ballots so printed shall then be combined in tablets, so as to have the fewest possible ballots having the same order of names printed thereon together in the same tablet.

Arrangement for First, Second, and Other Choices. After the column containing the names of the candidates, arranged as indicated, there shall be printed three columns headed "first choice," "second choice," and "other choices"

respectively. Each voter shall be entitled to place as many crosses in the column marked "first choice" as there are offices to be filled. He shall also be entitled to place as many crosses in the column marked "second choice" as there are offices to be filled, provided that he may not mark a cross in the column marked "second choice" after a name for which he has marked a cross in the first column. He may also place in the column marked "other choices" crosses after any names which he has not designated as first or second choices.

Form of Ballot. The form of the ballot with the voter's choices thereon shall be substantially the following:

REGULAR (OR SPECIAL) MUNICIPAL ELECTION

Names of Candidates	First Choice	Second Choice	Other Choices
A	X		
B		X	
C			
D			X
E			X

INSTRUCTIONS

Vote your first choice in the first column. Vote your second choice in the second column. Vote in the third column for any other candidates whom you are willing to support.

Do not vote more than one first choice and one second choice for any one office.

If you wrongly mark, tear or deface this ballot, return it and obtain another.

When more than one candidate is to be chosen the foregoing instructions must be modified in accordance with the provisions of section 2.

SECTION 13. *Counting of Ballots.* The ballots shall be counted by adding up the first choices cast for each candidate. If any candidates receive a number of first choices equal to a majority of all the valid ballots cast, they shall be declared elected in the order of the votes received. As to candidates who have not received such a majority, the number of second choices cast for each candidate shall then be counted and shall be added to the number of first choices. Any candidates who have then a total of first and second choices equal to a majority of all valid ballots cast

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